

Application No. 10/810,386  
Amendment dated November 14, 2005  
Reply to Office Action of August 12, 2005

### **REMARKS/ARGUMENTS**

Responsive to the Official Action mailed July 14, 2005, applicants have further amended the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, independent claims 5 and 6 have been amended. Reconsideration is respectfully requested.

Applicants gratefully note the Examiner's withdrawal of her rejection based upon the commonly-owned Riviera et al. reference.

In rejecting the pending claims under 35 U.S.C. §103, the Examiner has relied principally upon U.S. patent publication No. 2004/0132368, to Price et al., in view of U.S. Patent No. 6,660,503, to Kierulff, and further in view of U.S. patent publication No. 2002/0002764, to Putnam et al. However, it is respectfully submitted that, as set forth in the pending claims, applicants' novel flame-retardant nonwoven fabric construct is neither taught nor suggested by the cited references, even when combined, and accordingly, the Examiner's rejection is respectfully traversed.

In the Action, the Examiner continues to rely upon the Price et al. reference, but as previously noted, this reference clearly fails to teach or suggest a *nonwoven* flame-retardant fabric construct. Rather, this reference is specifically *limited in its teachings* to the provision of *woven, energy-absorbing materials*. As such, this reference clearly fails to teach or suggest applicants' *nonwoven* flame-retardant construct, with Price et al. having essentially *no teachings* regarding flame-retardant fabrics, since this reference is specifically directed to *energy-absorbing fabrics*.

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In this regard, applicants respectfully refer to M.P.E.P. Section 2143.03, which specifically requires that "all claim limitations be taught or suggested" in order to formulate a proper obviousness rejection, and that "all words in a claim be considered in judging patentability of that claim against the prior art" (citations omitted).

In this context, it is respectfully submitted that Price et al. does not teach or suggest applicants' claimed invention. First, since Price is clearly specifically limited to the formation of a laminate fabric structure *including woven fabric layers*, this reference *cannot* teach or suggest applicants' claimed nonwoven fabric, formed from *100% nonwoven material*.

Moreover, Price et al. clearly fails to teach or suggest a *flame-retardant* fabric construct, since Price et al. is specifically limited in its teachings to the formation of an *energy-absorbing* woven laminate fabric structure.

Significantly, the Examiner acknowledges that Price et al. fails to teach the use of lyocell fibers, as claimed. Moreover, since Price et al. concerns *energy-absorbing* materials, and not *flame-retardant* materials, it would clearly not be an obvious expedient to substitute lyocell fibers for the fibers disclosed in Price et al.

As stated in applicants' Specification:

Not meaning to be bound by theory, it is believed that the fibrous components of the flame-retardant fabric have a synergistic relationship to provide a cost-effective fabric with exceptional strength, softness, and flame-retardancy, wherein upon burning, the lyocell fiber forms a char due to the presence of the modacrylic fiber, which also chars, yet the integrity of the fabric remains structurally stable upon the incorporation of the para-amide fiber.

Since the principal Price et al. reference relates to *energy-absorbing materials*, there clearly can be no teaching or suggestion in this reference, nor motivation to one skilled in the

art, to employ lyocell and modacrylic fibers in combination, in accordance with the present invention as claimed.

Applicants respectfully refer to M.P.E.P. Section 2143.01, which specifically requires that "the prior art must suggest the desirability of the claimed invention" (citation omitted). In view of the clear absence of any teachings in the principal Price et al. reference of providing a *flame-retardant* fabric, in accordance with the present invention, this reference clearly does not suggest applicants' claimed provision of lyocell and modacrylic fibers in combination, in order to achieve improved flame-retardancy performance.

Additionally, as noted, Price et al. cannot teach or suggest the *cost efficiencies* achieved by the present invention, since Price et al. is specifically limited in its teachings to the use of *woven fabric layers*.

Applicants must further respectfully maintain that the secondary Kierulff reference clearly fails to overcome the deficiencies in the teachings of the principal Price et al. patent. While it is noted that this patent makes passing reference to "flame-retardant fabric", it will be noted that the thrust of this patent concerns modification of polysaccharides, particularly as follows:

Accordingly, the present invention provides a process for enzymatically oxidizing a soluble or an in-soluble oligo- or polysaccharide containing free hydroxy groups to carbonyl groups or carboxylate groups, wherein the soluble or in-soluble oligo- or polysaccharide is reacted with a phenol oxidizing enzyme in combination with an enhancing agent capable of catalyzing the oxidation (column 5, line 65 *et seq.*).

Clearly, when the principal Price et al. reference teaches away from applicants' invention, and when neither of the primary or secondary references teach or suggest the novel

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combination set forth in applicants' claims, it is respectfully submitted that the claims comply with the requirements of 35 U.S.C. §103.

Applicants note the Examiner's further reliance upon the Putnam et al. reference, but it is respectfully noted that this reference does not overcome the clear deficiencies in the teachings of the Price et al. and Kierulff references in teaching or suggesting applicants' invention as claimed.

In view of the foregoing, formal allowance of claims 5-10 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

By   
Stephen D. Geimer, Reg. No. 28,846

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
500 West Madison Street, Suite 3800  
Chicago, Illinois 60661-2511  
312/876-1800

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I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **November 14, 2005**.

